

FILED

AT 11:50 O'CLOCK 2 M

NO. C-269-04-H

THE STATE OF TEXAS,
Plaintiff

v.

RUTH C. THOMAS AND
JOHN W. THOMAS d/b/a
TRAMITES MIGRATORIOS,
Defendants

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IN THE DISTRICT COURT

SEP 09 2004

OMAR GUERRERO, CLERK
District Court, Hidalgo County
By *[Signature]* Deputy

HIDALGO COUNTY, TEXAS

389th JUDICIAL DISTRICT

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

This case is submitted to you by asking questions about the facts, which you must decide from the evidence you have heard in this trial. You are the sole judges of the credibility of the witnesses and the weight to be given their testimony, but in matters of law, you must be governed by the instructions in this charge. In discharging your responsibility on this jury, you will observe all the instructions, which have previously been given to you. I shall now give you additional instructions, which you should carefully and strictly follow during your deliberation.

1. Do not let bias, prejudice, or sympathy play any part in your deliberations.
2. In arriving at your answers, consider only the evidence introduced here under oath and such exhibits, if any, as have been introduced for your consideration under the ruling of the court, that is, what you have seen and heard in this courtroom, together with the law as given you by the court. In your deliberations, you will not consider or discuss anything that is not represented by the evidence in this case.
3. Since every answer that is required by the charge is important, no juror should state or consider that any required answer is not important.
4. You must not decide who you think should win, and then try to answer the questions accordingly. Simply answer the questions, and do not discuss nor concern yourselves with the effect of your answers.
5. You will not decide the answer to a question by lot or by drawing straws, or by any other method of chance. Do not return a quotient verdict. A quotient verdict means that the

jurors agree to abide by the result to be reached by adding together each juror's figures and dividing by the number of jurors to get an average. Do not do any trading on your answers; that is, one juror should not agree to answer a certain question one way if others will agree to answer another question another way.

6. You may render your verdict upon the vote of ten or more members of the jury. The same ten or more of you must agree upon all of the answers made and to the entire verdict. You will not, therefore, enter into an agreement to be bound by a majority or any other vote of less than ten jurors. If the verdict and all of the answers therein are reached by unanimous agreement, the presiding juror shall sign the verdict for the entire jury. If any juror disagrees as to any answer made by the verdict, those jurors who agree to all findings shall each sign the verdict.

These instructions are given you because your conduct is subject to review the same as that of the witnesses, parties, attorneys, and the judge. If it should be found that you have disregarded any of these instructions, it will be jury misconduct and it may require another trial by another jury; then all of our time will have been wasted.

The presiding juror or any other who observes a violation of the court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.

When the words are used in this charge in a sense that varies from the meaning commonly understood, you are given a proper legal definition, which you are bound to accept in place of any other meaning.

Answer "Yes" or "No" to all questions unless otherwise instructed. A "Yes" answer must be based on a preponderance of the evidence. If you do not find that a preponderance of the evidence supports a "Yes" answer, then answer "No". The term "preponderance of the evidence" means the greater weight and degree of credible evidence admitted in this case. Whenever a question requires an answer other than "Yes" or "No", your answer must be based on a preponderance of the evidence.

A fact may be established by direct evidence or by circumstantial evidence or both. A fact is established by direct evidence when proved by documentary evidence or by witnesses who saw the act done or heard the words spoken. A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from other facts proved.

QUESTION NO. 1

Did Ruth C. Thomas solicit or accept compensation to prepare documents for or otherwise represent the interest of another in a proceeding relating to immigration to the United States, United States citizenship, or related matters?

Answer "Yes" or "No."

yes.

QUESTION NO. 3

If you answered "Yes" to Question No. 1 and 2, then answer the following question with respect to the Defendant Ruth C. Thomas. Otherwise, do not answer the following question.

Did Ruth C. Thomas engage in any false, misleading, or deceptive act or practice in the conduct of trade or commerce?

"Trade" and "commerce" mean the advertising, offering for sale, sale, lease or distribution of any good or service, of any property, tangible or intangible, real, personal, or mixed, and any other article, commodity or thing of value, wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this state.

For purposes of this question only, a person has engaged in a "false, misleading, or deceptive act or practice" if the person is a notary public and the person solicited or accepted compensation to prepare documents for or otherwise represent the interest of another in a proceeding relating to immigration to the United States, United States citizenship, or related matters.

Answer "Yes" or "No."

yes

QUESTION NO. 2

If you answered "Yes" to Question No. 1, then answer the following question.
Otherwise, do not answer the following question.

Was Ruth C. Thomas a notary public at any time she solicited or accepted compensation to prepare documents for or otherwise represent the interest of another in a proceeding relating to immigration to the United States, United States citizenship, or related matters?

Answer "Yes" or "No."

yes

QUESTION NO. 4

Did Defendants give advice or render a service requiring the use of legal skill and knowledge in interviewing persons and advising them as to whether or not to file a petition or application under the Immigration and Naturalization Act to secure a benefit for the client or relative of the client?

In connection with your answer for Defendants Ruth C. Thomas and John W. Thomas, you are instructed that a party's conduct includes the conduct of another who acts with the party's authority.

Answer "Yes" or "No" for each of the following Defendants:

1. Ruth C. Thomas

yes.

2. John W. Thomas

yes.

QUESTION NO. 5

Did Defendants engage in any false, misleading, or deceptive act or practice in the conduct of trade or commerce?

“Trade” and “commerce” mean the advertising, offering for sale, sale, lease or distribution of any good or service, of any property, tangible or intangible, real, personal, or mixed, and any other article, commodity or thing of value, wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this state.

“False, misleading, or deceptive act or practice” means any of the following:

An act or series of acts that have the tendency to deceive an average ordinary person, even though that person may have been ignorant, unthinking, or credulous; or

Representing that a person has a status, affiliation or connection which he or she does not have; or

Representing that services have characteristics, uses or benefits which they do not have

In connection with your answer for Defendants Ruth C. Thomas and John W. Thomas, you are instructed that a party's conduct includes the conduct of another who acts with the party's authority.

Answer “Yes” or “No” for each of the following Defendants:

1. Ruth C. Thomas yes.
2. John W. Thomas yes.

QUESTION NO. 6

If you answered "Yes" to Question No. 3 or Question 5, then answer the following question with respect to the Defendant or Defendants that received a "yes" answer from you. Otherwise, do not answer the following question.

What sum of money, if any, was acquired by Defendant by means of any unlawful act or practice, including a "false, misleading, or deceptive act or practice," as defined above?

Do not add any amount for interest, if any.

Answer in dollar and cents for each of the following Defendants:

- | | |
|-------------------|------------------------|
| 1. Ruth C. Thomas | \$ <u>469,416.50</u> . |
| 2. John W. Thomas | \$ <u>469,416.50</u> . |

QUESTION NO. 7

If you answered "Yes" to Question No. 3 or Question 5, then answer the following question with respect to the Defendant or Defendants that received a "yes" answer from you. Otherwise, do not answer the following question.

You are hereby instructed that a civil penalty of not more than \$20,000 per violation per Defendant, may be assessed by you to be paid to the State of Texas. "Civil penalty" means an amount that you may in your discretion award as punishment of the wrongdoer and as a warning and example to the wrongdoer and others to deter the same or similar conduct in the future. In determining the amount of civil penalty, you shall consider:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited act or practice;
- (2) the history of previous violations;
- (3) the amount necessary to deter future violations;
- (4) the economic effect on the person against whom the penalty is to be assessed;
- (5) knowledge of the illegality of the act or practice; and
- (6) any other matter that justice may require.

What total amount of money, if any, should be assessed against Defendants as a civil penalty for false, misleading, or deceptive acts or practices committed by Defendants?

Answer in dollars and cents for each of the following Defendants:

1. Ruth C. Thomas \$ 20,000.00
2. John W. Thomas \$ 20,000.00

QUESTION NO. 8

If you answered "Yes" to Question No. 3 or Question 5, then answer the following question with respect to the Defendant or Defendants that received a "yes" answer from you. Otherwise, do not answer the following question.

What is a reasonable fee for the necessary services of the State's attorney in this case for preparation and trial, stated in dollars and cents?

Answer in dollars and cents for each of the following Defendants:

1. Ruth C. Thomas \$ 22,000.00.
2. John W. Thomas \$ 22,000.00.

FILED

AT 409 O'CLOCK P M

CERTIFICATE FORM FOR THE JURY

SEP 09 2004

We, the jury, have answered the above and foregoing questions as herein indicated,
and herewith return same into court as our verdict.

OMAR GUERRERO, CLERK
District Court, Hidalgo County
By Sara [Signature] Deputy

(To be signed by the presiding juror if unanimous.)

Peterson Pérez Jr.

PRESIDING JUROR

(To be signed by those rendering the verdict if not unanimous.)

After you retire to the jury room, you will select your own presiding juror. The first thing the presiding juror will do is to have this complete charge read aloud and then you will deliberate upon your answers to the questions asked.

It is the duty of the presiding juror:

1. to preside during your deliberations;
2. to see that your deliberations are conducted in an orderly manner and in accordance with the instructions in this charge;
3. to write out and hand to the bailiff any communication concerning the case which you desire to have delivered to the judge;
4. to vote on questions;
5. to write your answers to the questions in the spaces provided; and
6. to certify to your verdict in the space provided for the presiding juror's signature or to obtain the signature of all the jurors who agree with the verdict if less than unanimous.

After you have retired to consider your verdict, no one has any authority to communicate with you, except the bailiff of this Court. You should not discuss the case with anyone, not even with other members of the jury, unless all of you are present and assembled in the jury room. Should anyone attempt to talk to you about the case before the verdict is returned, whether at the courthouse, at your home or elsewhere, please inform the judge of this fact. LL

When you have answered all of the questions which you are required to answer under the instructions of the judge, and your presiding juror has placed your answers in the spaces provided, and signed the verdict as presiding juror or obtained the signatures, you will advise the bailiff at the door of the jury room that you have reached a verdict, and then you return into Court with your verdict.



JUDGE PRESIDING